

OSVALDO ESPINOZA	§	
v.	§	CIVIL ACTION NO. 6:11cv606
DIRECTOR, TDCJ-CID	§	

The Petitioner Osvaldo Espinoza, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of prison disciplinary action taken against him during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Respondent was ordered to answer the petition and did so. After review of the pleadings, the Magistrate Judge issued a Report recommending that the petition be dismissed. The Magistrate Judge determined that Espinoza had failed to show that the punishments imposed upon him as a result of the disciplinary case at issue implicated any constitutionally protected liberty interests. *See Sandin v. Conner*, 115 S.Ct. 2293, 2301 (1995); *Malchi v. Thaler*, 211 F.3d 953, 959 (5th Cir. 2000). The Magistrate Judge therefore recommended that Espinoza's petition be dismissed and that Espinoza be denied a certificate of appealability *sua sponte*.

A copy of this Report was sent to Espinoza at his last known address, return receipt requested, but no objections have been received; accordingly, Espinoza is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon

grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 9) is ADOPTED as the opinion of the District Court. It is further


ORDERED that the above-styled application for the writ of habeas corpus is hereby DISMISSED with prejudice. It is further

ORDERED that the Petitioner Osvaldo Espinoza is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this civil action are hereby DENIED.

It is SO ORDERED.

SIGNED this 10th day of September, 2012.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE